

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2020-275-S

Application of Condor Environmental, Inc., Requesting an Expansion of its Existing Sewer Service Area to Include Certain Portions of Anderson County and Saluda County and Approval of Agreement.

**CONDOR ENVIRONMENTAL, INC.'S
OBJECTION TO PETITION TO
INTERVENE OF SALUDA COUNTY
WATER AND SEWER AUTHORITY**

Condor Environmental, Incorporated (“Condor”) objects to the petition to intervene and objection filed by the Saluda County Water and Sewer Authority (“SCWSA”) on December 1, 2020. Intervention should be denied because SCWSA lacks standing to object to Condor’s application to serve the Palmetto Pointe subdivision. SCWSA also fails to state any valid reason why the Commission should deny Condor’s motion to provisionally serve Palmetto Pointe until its application is finally decided.

SCWSA’s basis for intervention comes down to a complaint that it was not chosen to serve the Palmetto Pointe subdivision. SCWSA’s existing rights are not affected by Palmetto Pointe’s decision to hire Condor, because SCWSA does not provide service in the subdivision. Condor’s service at Palmetto Pointe will also not interfere with SCWSA’s service elsewhere. It is irrelevant that SCWSA is constructing a sewer treatment plant; that plant will not be ready to serve Palmetto Pointe any time soon, and the neighborhood needs service now. It is also irrelevant that SCWSA serves a similar septic drain field system elsewhere in the county. SCWSA is an authorized provider in the county, but not the only authorized provider in the county. SCWSA has no interest at stake that would justify intervention. *See e.g. Application of Carolina Water Service, Order*

2015-633, Docket No. 2015-199 (petitioners showed no injury in fact or invasion of a legally protected interest).

As the premise of its petition, SCWSA wrongly claims it is “*the* wholesale and retail sewer service provider to those in Saluda County seeking sewer service.” SCWSA Pet. p. 1 (*emphasis added*). In fact, SCWSA is merely *a* sewer provider in Saluda County. The law authorizing special purpose districts such as SCWSA says: “[a] special purpose district ... *may* provide sewer service to the area within its boundaries.” S.C. Code Ann. § 6-11-320 (*emphasis added*). SCWSA has no exclusive right to serve Saluda County, nor does it have a “right of first refusal” as its petition implies. Palmetto Pointe has the right to choose its sewer provider, and it decided Condor was best for the job and its residents.

SCWSA also misconstrues Commission precedent. It argues the Commission only allows expansion “when there are no other facilities in the area or the public utility consents to service by others.”¹ Both orders cited by SCWSA involved uncontested applications to extend service. The Commission noted that (as in the present case) no other utility served the applicants’ proposed service area. The Commission also noted there was no public service available to these subdivisions. However, the Commission did not require a public service district’s consent for a private utility to provide service within the public service district’s boundaries. It should also be noted that, in this present case, SCWSA is not asserting the right to provide service through a regional sewerage treatment facility; it asserts the right to serve a septic drain field.

SCWSA complains it was not served with Condor’s application, but the Commission’s regulations did not require Condor to serve its application or motion on SCWSA. The Commission’s regulation requires notice of an application to expand service territory to “other

¹ Pet. ¶ 5 citing *In re Application of United Utility Companies, Inc.*, Order No. 2003-229, Docket No. 2003-50-S, and *In re Application of Midland Utility, Inc.* Order No. 2007-628, Docket No. 2006-163-S.

interested wastewater utilities.” S.C. Code Reg. 103-506. SCWSA is not an “interested wastewater utility” under the Commission’s regulations. The Commission’s regulations define as “utility” as “[e]very person, firm, partnership, association, establishment or corporation furnishing or supplying in any manner sewerage collection and/or sewerage disposal service to the public or any portion thereof, *for compensation*.” S.C. Code Regs. 103-502 (*emphasis added*). An interested utility under the regulation is a “public utility” as defined by South Carolina law:

The term “public utility” includes every corporation and person delivering natural gas distributed or transported by pipe, and every corporation and person furnishing or supplying in any manner heat (other than by means of electricity), water, sewerage collection, sewerage disposal, and street railway service, or any of them, to the public, or any portion thereof, *for compensation...*

S.C. Code Ann. § 58-5-10 (*emphasis added*)

SCWSA is not an “interested utility” within the meaning of the law or regulation, and Condor was not required to serve it with its application.

SCWSA’s request that Condor publish notice in this docket has no basis in the law or regulation. Condor has served DHEC as required by the Reg. 103-506. Assuming, for argument’s sake that SCWSA is entitled notice, it has now received it. SCWSA does not identify the “other interested parties” it fears could be “left in the dark”. Pet. ¶ 4. This request is a transparent attempt to delay Condor’s application. In any event, if the Commission should agree additional notice is required, this should not prevent it from granting Condor’s motion to provisionally serve Palmetto Pointe.

CONCLUSION

SCWSA fails to state a cognizable interest warranting intervention in this docket. Even, if the Commission were to grant SCWSA’s petition, it should not deny Condor’s petition to provide provisional service to Palmetto Pointe. The public interest would be served if Condor can proceed

with service on a provisional basis to the customers of Palmetto Pointe according to the terms negotiated with the developer, subject to any future adjustment the Commission deems necessary.

No prejudice would result to any party from the Commission granting Condor's motion.

Respectfully submitted,

s/ Charlie Terreni

Date: December 11, 2020

Charles L.A. Terreni
TERRENI LAW FIRM, LLC
1508 Lady Street
Columbia, South Carolina 29201
Tel. (803) 771-7228
charles.terreni@terrenilaw.com
SC Bar. No. 15235

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA DOCKET NO.
2020-275-S

CERTIFICATE OF SERVICE

I, **CARL E. BELL**, hereby certify that I have, on this **11th day of December, 2020** served the *Condor Environmental, Inc.*'s ***OBJECTION TO PETITION TO INTERVENE OF SALUDA COUNTY WATER AND SEWER AUTHORITY in the matter of Condor Environmental, Inc.,*** upon the parties listed below by email to the following addresses:

Jeffrey M. Nelson , Counsel

Email: jnelson@ors.sc.gov

Carri Grube Lybarker*

Email: clybarker@scconsumer.gov

Roger P. Hall*

Email: rhall@scconsumer.gov



Carl E. Bell

Terreni Law Firm, LLC
1508 Lady Street
Columbia, South Carolina 29201
Telephone (803) 771-7228
Fax (803) 771-8778
carlbell@terrenilaw.com

Columbia, South Carolina
December 11, 2020